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Attorneys for Complainant

**BEFORE THE
PHYSICAL THERAPY BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

DEBORAH LEANNE MARLIER, P.T.
7008 Tilbury Court
McKinney, Texas 75071

Physical Therapist No. PT 14353,
Respondent.

Case No. 1D 2001 62858

OAH No. L2006090290

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

In the interest of a prompt and speedy settlement of this matter, consistent with the public interest and the responsibility of the Physical Therapy Board of California (Board), the parties hereby agree to the following Stipulated Settlement and Disciplinary Order which will be submitted to the Board for approval and adoption as the final disposition of the Accusation.

PARTIES

1. Steven K. Hartzell (Complainant) is the Executive Officer of the Board. He brought this action solely in his official capacity and is represented in this matter by Bill Lockyer, Attorney General of the State of California, by Chris Leong, Deputy Attorney General.

2. Respondent Deborah Leanne Marlier (Respondent) is represented in this proceeding by attorney David K. Demergian of the firm of Fitzmaurice, Demergian & Palaganas, 550 West "C" Street, Suite 1880, San Diego, California 92101.

3. On or about July 1, 1987, the Board issued Physical Therapist license No. PT 14353 to Respondent. The license was in full force and effect at all times relevant to the

1 charges brought in Accusation No. 1D 2001 62858 and will expire on August 31, 2008, unless
2 renewed.

3 **JURISDICTION**

4 4. Accusation No. 1D 2001 62858 was filed before the Board and is currently
5 pending against Respondent. The Accusation and all other statutorily required documents were
6 properly served on Respondent on July 24, 2006. Respondent timely filed her Notice of Defense
7 contesting the Accusation. A copy of Accusation No. 1D 2001 62858 is attached as Exhibit A
8 and is incorporated herein by reference.

9 **ADVISEMENT AND WAIVERS**

10 5. Respondent has carefully read, fully discussed with counsel, and
11 understands the charges and allegations in Accusation No. 1D 2001 62858. Respondent has also
12 carefully read, fully discussed with counsel, and understands the effects of this Stipulated
13 Settlement and Disciplinary Order.

14 6. Respondent is fully aware of her legal rights in this matter, including her
15 right to a hearing on the charges and allegations in the Accusation; her right to be represented by
16 counsel at her own expense; her right to confront and cross-examine the witnesses against her;
17 her right to present evidence and to testify on her own behalf; her right to the issuance of
18 subpoenas to compel the attendance of witnesses and the production of documents; her right to
19 reconsideration and court review of an adverse decision; and all other rights accorded to her by
20 the California Administrative Procedure Act and other applicable laws.

21 7. Respondent voluntarily, knowingly, and intelligently waives and gives up
22 each and every right set forth above.

23 **CULPABILITY**

24 8. Respondent admits the truth of the following:

25 A. In or about the period from January 1, 2000 through December 31, 2003,
26 respondent failed as a manager, corporation officer and Chief Stockholder for
27 Fitness Aquatics and Sports Physical Therapy, to ensure that respondent and
28 supervising physical therapist Allison Moore, Daniel Mundorff, in the employ of

1 Fitness Aquatics and Sports Physical Therapy, co-signed patient visit notes
2 entered in patient records by Physical Therapy Assistants Maile Peper, Barbara
3 Kummer, Steve Wright, Steven Steinberg, David Campbell relative to the patients
4 listed in the First and Second Cause for Discipline. During this same time period,
5 respondent also failed to ensure that weekly patient case conferences with these
6 physical therapist and physical therapy assistants occurred, and were appropriately
7 recorded.

8 B. In or about the period from January 1, 2000 through December 31, 2003,
9 respondent treated the patients specified in the First and Second Cause for
10 Discipline. Thereafter, respondent and/or Fitness Aquatics and Sports Physical
11 Therapy, recorded billing for those patients for the therapy sessions, but failed to
12 provide adequate documentation for such services in the patient record for those
13 dates prior to billing.

14 C. Respondent owned and operated Fitness Aquatics and Sports Physical
15 Therapy facilities where she provided physical therapy services to patients. During the
16 years 2000 to 2003, respondent operated a facility at 7070 Marketplace Drive, Goleta,
17 California. During a two week period, Respondent allowed boxes to be stored in front of
18 the back emergency exit. This impeded the use of the emergency exit door.

19 D. Respondent's conduct in failing to ensure records compliance, her failure
20 to provide documentation of the services for which those patients were
21 subsequently billed, and the blockage of the emergency exit, as described above,
22 constitutes unprofessional conduct within the meaning of Code sections 2660 and
23 2692.

24 9. Respondent agrees that her Physical Therapist is subject to discipline and
25 she agrees to be bound by the Board 's imposition of discipline as set forth in the Disciplinary
26 Order below.

27 **CIRCUMSTANCES IN MITIGATION**

28 10. Respondent Deborah Leanne Marlier has not been the subject of any prior

1 disciplinary action. She is admitting responsibility at an early stage in the proceedings. There
2 was no probation Ordered because she is residing in the State of Texas and is not presently
3 practicing in California.

4 CONTINGENCY

5 11. This stipulation shall be subject to approval by the Board. Respondent
6 understands and agrees that counsel for Complainant and the staff of the Physical Therapy Board
7 of California may communicate directly with the Board regarding this stipulation and settlement,
8 without notice to or participation by Respondent or her counsel. By signing the stipulation,
9 Respondent understands and agrees that she may not withdraw her agreement or seek to rescind
10 the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt
11 this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall
12 be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action
13 between the parties, and the Board shall not be disqualified from further action by having
14 considered this matter.

15 12. The parties understand and agree that facsimile copies of this Stipulated
16 Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same
17 force and effect as the originals.

18 13. In consideration of the foregoing admissions and stipulations, the parties
19 agree that the Board may, without further notice or formal proceeding, issue and enter the
20 following Disciplinary Order:

21 DISCIPLINARY ORDER

22 **IT IS HEREBY STIPULATED AND AGREED**, based upon the above
23 stipulations and recitals, that the Board, upon its approval of the Stipulation herein set forth, may,
24 without further notice, enter a Decision whereby Respondent, as hold of Physical Therapist
25 License No. PT 14353, shall, by way of letter from the Physical Therapy Board of California, be
26 publicly reproved; provided, however, that said public reproof is conditional upon Respondent's
27 full compliance with the following conditions with the following conditions precedent:

28 1. **COST RECOVERY.** The Respondent is ordered to reimburse the Board

1 the actual and reasonable investigative and prosecutorial cost incurred by the Board in the
2 amount of \$21,245.00. Said cost shall be reduced, however, and the remainder forgiven, if
3 Respondent pays \$10,000.00, within sixty (60) days of the effective date of this Decision. In the
4 event Respondent fails to pay within sixty (60) days of the effective date of this Decision, the full
5 amount of cost shall be immediately due and payable. Failure to pay the ordered reimbursement,
6 or any agreed upon payment, may constitute a violation of the probation order. The filing of
7 bankruptcy by Respondent shall not relieve Respondent of his responsibility to reimburse the
8 Board. If Respondent is in default of his responsibility to reimburse the Board, the Board will
9 collect the cost recovery from the Franchise Tax Board, the Internal Revenue Service or by any
10 other means of attachment of earned wages legally available to the Board. Failure to fulfill the
11 obligation could also result in attachment to Department of Motor Vehicle registrations and or
12 license renewals.

13 2. **COMPLIANCE.** If Respondent timely and successfully completes the
14 terms set forth above within six (6) months, a public reproof shall be issued to Respondent
15 pursuant to Business and Professions Code section 495, in the form of a letter which is attached
16 hereto as Exhibit B, and is incorporated by reference herein as if fully set forth.

17 **NON-COMPLIANCE WITH DISCIPLINARY ORDER**

18 In the event respondent fails to comply with each and every term and condition set
19 forth above, such failure shall be deemed a violation of Business and Professions Code section
20 2692, and the Board, after having giving notice and an opportunity to be heard, may take
21 additional disciplinary action against respondent. In such circumstances, as additional grounds
22 for discipline. At that time, the Board shall also have continuing jurisdiction until the matter is
23 final. The case will also be referred to the Office of Administrative Hearings in Los Angeles for
24 trial.

25 **ACCEPTANCE**

26 I have carefully read the above Stipulated Settlement and Disciplinary Order and
27 have fully discussed it with my attorney, David K. Demergian. I understand the stipulation and
28 the effect it will have on my Physical Therapist license. I enter into this Stipulated Settlement

1 and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the
2 Decision and Order of the Board.

3 ///

4 DATED: April 16, 2007.

5
6 Original Signed By:
7 DEBORAH LEANNE MARLIER
Respondent

8 I have read and fully discussed with Respondent Deborah Leanne Marlier the
9 terms and conditions and other matters contained in the above Stipulated Settlement and
10 Disciplinary Order. I approve its form and content.

11 DATED: April 17, 2007.

12
13 Original Signed By:
14 DAVID K. DEMERGIAN, ESQ.
Attorney for Respondent

15 **ENDORSEMENT**

16 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
17 submitted for consideration by the Board.

18 DATED: April 17, 2007.

19 EDMUND G. BROWN JR., Attorney General
20 of the State of California

21
22 Original
23 CHRIS LEONG
Deputy Attorney General
24 Attorneys for Complainant

Exhibit A

Accusation No. 1D 2001 62858

Exhibit B
Public Reproval

DEBORAH LEANNE MARLIER, P.T.
7008 Tilbury Court
McKinney, Texas 75071

RE: Physical Therapist license No.: PT 14353
Physical Therapy Board Case No.: 1D 2001 62858
OAH No. L2006090290

PUBLIC REPROVAL

An investigation by the Physical Therapy Board of California revealed that:

A. In or about the period from January 1, 2000 through December 31, 2003, Respondent failed as a manager, corporation officer and Chief Stockholder for Fitness Aquatics and Sports Physical Therapy, to ensure that respondent and supervising physical therapist Allison Moore, Daniel Mundorff, in the employ of Fitness Aquatics and Sports Physical Therapy, co-signed patient visit notes entered in patient records by Physical Therapy Assistants Maile Peper, Barbara Kummer, Steve Wright, Steven Steinberg, David Campbell relative to the patients listed in the First and Second Cause for Discipline. During this same time period, respondent also failed to ensure that weekly patient case conferences with these physical therapist and physical therapy assistants occurred, and were appropriately recorded.

B. In or about the period from January 1, 2000 through December 31, 2003, Respondent treated the patients specified in the First and Second Cause for Discipline. Thereafter, Respondent and/or Fitness Aquatics and Sports Physical Therapy, recorded billing for those patients for the therapy sessions, but failed to provide adequate documentation for such services in the patient record for those dates prior to billing.

C. Respondent owned and operated Fitness Aquatics and Sports Physical Therapy facilities where she provided physical therapy services to patients. During the years 2000 to 2003, respondent operated a facility at 7070 Marketplace Drive, Goleta, California. During a two week period, Respondent allowed boxes to be stored in front of the back emergency exit. This impeded the use of the emergency exit door.

WHEREFORE, pursuant to the authority under sections 2660 and 2692 of the Business and Professions Code, the Physical Therapy Board of California issues this Public Reproval with the expectation that you have addressed the causes for the violations and that the alleged conduct underlying the violations will not be repeated

Nancy Krueger, PT
President, Physical Therapy Board of California

**BEFORE THE
PHYSICAL THERAPY BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

DEBORAH LEANNE MARLIER, P.T.

7008 Tilbury Court
McKinney, Texas 75071

Physical Therapist No. PT 14353,

Respondent.

Case No. 1D 2001 62858

OAH No. L2006090290

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Physical Therapy Board of California, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on June 14, 2007.

IT IS SO ORDERED May 15, 2007.

Original Signed By: _____
FOR THE PHYSICAL THERAPY BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
Nancy Krueger, PT, President